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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/973,537

10/09/2001

Pasi Into Loukas

7812

7590

06/22/2005

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EXAMINER

MARCELO, MELVIN C

ART UNIT

PAPER NUMBER

2662

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/973,537

Applicant(s)

LOUKAS, PASI INTO

Examiner

Melvin Marcelo

Art Unit

2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 1-3, it is not clear what is the statutory class for the claimed subject matter. The claims refer to a system, which are typically an apparatus class (see claims 4-7 which are system claims that recite structural elements); however, claims 1-3 recite method steps rather than structural elements. The examiner presumes that claims 1-3 are intended to be method claims. If this interpretation is incorrect, applicant should clarify their intention as to the proper statutory class -- apparatus or method.

Claim 1, line 5, it is not clear whether "repeating modulated" should be --repeatedly modulating--.

Claim 1, line 5, it is not clear what is meant by "said pulse group type pulse groups" since the phrase appears redundant.

Claim 3, line 10, it is not clear what is meant by "read/resolves." Does it mean 'read or resolves', 'read and resolves', or 'read and/or resolves'?

Claim 3, line 85, it is not clear what is meant by "regularities/algorithms." See above.

With respect to claims 3-7, the phrases "other properties," "other packet properties" or its variations appear (see claim 3, lines 15, 29, 41, 88, 91, 99, 107, 117, 126, 136, 147 and 148; claim 4, lines 9 and 23; claim 5, line 8; claim 6, line 8; and claim 7, lines 6, 9, 12, 14, 24 and 25). It is not clear what is the scope of these phrases. How should "other properties" or "other

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packet properties" be interpreted and evaluated such that skilled artisans would be informed of the proper scope of applicant's claimed subject matter. Is there a test to determine what is or is not a property? It is not evident from the specification how to determine what constitutes "other properties."

Claim 4, line 4, it is not clear what is meant by "reads/resolves."

***Allowable Subject Matter***

3. Claims 1-7 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

4. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to anticipate or make obvious the soliton transmission system and packet switching system, wherein in the claims, the term "optionally" is interpreted by the examiner to mean that the system performs the associated 'optional' functions by selecting the particular function under certain circumstances. If this interpretation is incorrect, applicant should clarify their intention as to how to interpret "optionally." This phrase appears in claim 2, lines 2, 9, 21 and 23; claim 3, lines 4, 25, 56, 71, 76, 82, 84, 92, 101, 105 and 146; claim 4, lines 19 and 26; claim 5, line 9; claim 6, line 11; and claim 7, lines 18 and 23. Aukia et al. (US 6,594,268 B1, column 3, lines 39-53) and Ofek et al. (US 6,778,536 B1, column 6, line 58 to column 7, line 20) teach the use of headers in received packets to establish actions for treating subsequent associated packets, but do not teach the optional functions in the claimed subject matter.

Also, in claim 1, line 3, the phrase ", such as laser light pulses," is interpreted as an example of "electromagnetic radiation pulses," rather than as a further limitation of the claimed subject matter. If this interpretation is incorrect, applicant should clarify their intention.

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In claim 3, lines 2-3 and 8, the phrase “, like the Internet,” is interpreted as an example, rather than as a further limitation.

In claims 3, lines 16 and 17, and claim 4, lines 10 and 11, “said sample packet” and “said sampled packet” are interpreted to refer to the “certain percentage or certain number of packets.”

In claim 3, line 59, the “for example” phrase is not interpreted as a further limitation.

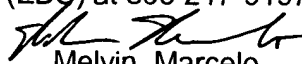
In claims 4, 5, 6 and 7, lines 1-2, the phrase “, especially for wide area networks like the Internet,” is interpreted as an example of a “packet based networks,” rather than a further limitation.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin Marcelo whose telephone number is 571-272-3125. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 571-272-3088. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Melvin Marcelo  
Primary Examiner  
Art Unit 2662

June 20, 2005